HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 597 Homestead Exemption for Seniors 65 and Older
SPONSOR(S): Woodson and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 1256

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Ways & Means Committee		Curry	Aldridge
2) Local Administration & Veterans Affairs Subcommittee			
3) State Affairs Committee			

SUMMARY ANALYSIS

The Florida Constitution requires all property to be assessed at just value (i.e. market value) as of January 1 of each year for purposes of ad valorem taxation. Property assessments are used to calculate ad valorem taxes that fund counties, municipalities, district school boards and special districts. The taxable value against which local governments levy tax rates each year reflects the just value as reduced by applicable exceptions and exemptions allowed by the Florida Constitution. One such exemption is on the first $25,000 of assessed value of a homestead property, which is exempt from all taxes. A second homestead exemption is on the assessed value between $50,000 and $75,000, which is exempt from all taxes other than school district taxes.

The Florida Constitution also authorizes the Legislature to allow counties and municipalities to grant additional homestead property tax exemptions, through the adoption of an ordinance, for persons aged 65 years or over whose household income does not exceed $20,000 (low-income seniors). Qualifying seniors must hold legal or equitable title to the real estate and maintain thereon their permanent residence. The income limitation is adjusted each year according to changes in the consumer price index. The 2021 household income threshold for these exemptions is $31,100.

The bill requires that an ordinance enacted by a local government authorizing an additional homestead exemption for low-income seniors must require the taxpayer to submit a sworn statement of household income when claiming the exemption for the first time only, rather than annually. The bill also requires the property appraiser to annually notify each taxpayer claiming the exemption of the adjusted income limitation for that year. The taxpayer must then notify the property appraiser if his or her income exceeds the income limitation. If a taxpayer fails to notify the appraiser of an increase in annual income over the limitation, and the appraiser determines that the taxpayer received an exemption for which they were not entitled, the taxpayer is subject to the taxes exempted, plus interest and penalties, consistent with current law.

The Revenue Estimating Conference, on March 12, 2021, estimated that the impact to local government revenue is indeterminate positive or negative.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Property Taxes

The Florida Constitution reserves ad valorem taxation to local governments and prohibits the state from levying ad valorem taxes on such property.[1] The ad valorem tax is an annual tax levied by counties, cities, school districts, and some special districts based on the value of real and tangible personal property as of January 1 of each year.[2] The Florida Constitution requires all property to be assessed at just value for ad valorem tax purposes[3] and provides for specified assessment limitations, property classifications, and exemptions.[4] After the property appraiser considers any assessment limitation or use classification affecting the just value of a property, an assessed value is produced. The assessed value is then reduced by any exemptions to produce the taxable value.[5]

Property Tax Exemptions

Unless expressly exempted from taxation, all real and personal property and leasehold interests in the state is subject to taxation.[6] The Legislature may only grant property tax exemptions that are authorized in the Florida Constitution, and any modifications to existing property tax exemptions must be consistent with the constitutional provision authorizing the exemption.[7]

Homestead Exemptions

Every person having legal and equitable title to real estate and who maintains a permanent residence on the real estate (homestead property) is eligible for a $25,000 tax exemption applicable to all ad valorem tax levies, including levies by school districts.[8] An additional $25,000 exemption applies to homestead property value between $50,000 and $75,000.[9] This exemption does not apply to ad valorem taxes levied by school districts.

Additional Homestead Exemptions for Persons 65 and Older

Under current law, additional homestead property tax exemptions may be granted to persons aged 65 years or over whose household income does not exceed $20,000 (low-income seniors).[10]

Article VII, section 6(d) of the Florida Constitution provides that the Legislature may, by general law, allow counties and municipalities to grant either or both of the following additional homestead exemptions:

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[1] Art. VII, s. 1(a), Fla. Const.
[2] Section 192.001(12), F.S., defines "real property" as land, buildings, fixtures, and all other improvements to land. The terms "land," "real estate," "realty," and "real property" may be used interchangeably. Section 192.001(11)(d), F.S., defines "tangible personal property" as all goods, chattels, and other articles of value (but does not include the vehicular items enumerated in article VII, section 1(b) of the Florida Constitution and elsewhere defined) capable of manual possession and whose chief value is intrinsic to the article itself
[3] Art. VII, s. 4, Fla. Const.
[4] Art VII, ss. 3, 4, and 6, Fla. Const.
[5] Section 196.031, F.S.
[6] Section 196.001, F.S.; see also Sebring Airport Authority v. McIntyre, 642 So. 2d 1072, 1073 (Fla. 1994), noting exemptions are strictly construed against the party claiming them.
[7] Archer v. Marshall, 355 So. 2d 781, 784 (Fla. 1978); Sebring Airport Auth. v. McIntyre, 783, So. 2d 238, 248 (Fla. 2001); Am Fi Inv. Corp v. Kinney, 360 So. 2d 415 (Fla. 1978); see also Sparkman v. State, 58 So. 2d 431, 432 (Fla. 1952).
[8] FLA. CONST. art VII, s. 6(a) and s. 196.031, F.S.
[9] Section 196.031(1)(b), F.S.
[10] FLA. CONST. Art. VII, s. 6(d)(1) and (2).

- An exemption not exceeding $50,000 to any person who has the legal or equitable title to real estate and maintains thereon the permanent residence of the owner, and who has attained age 65, and whose household income, as defined by general law, does not exceed $20,000;[11] or

- An exemption equal to the assessed value of the property to any person who has the legal or equitable title to real estate with a just value less than $250,000, and who has maintained thereon the permanent residence of the owner for not less than 25 years, and who has attained age 65, and whose household income does not exceed $20,000.[12]

The Legislature implemented these constitutional provisions in general law through s. 196.075, F.S., allowing counties and municipalities the discretion to grant the exemptions through the adoption of an ordinance.[13] Qualifying seniors must hold legal or equitable title to the real estate and maintain thereon their permanent residence. The $20,000 income limitation is adjusted each year according to changes in the consumer price index. The 2021 household income threshold for these exemptions is $31,100.[14] Qualifying seniors must hold legal or equitable title to the real estate and maintain thereon their permanent residence.

Requirements for Ordinances Granting Additional Homestead Exemptions to Low-income Seniors

An ordinance granting an additional homestead exemption for low-income seniors as authorized by s. 196.075, F.S., must follow certain statutory requirements. Pursuant to s. 196.075(4), F.S., the ordinance must be adopted under the procedures for adoption of a nonemergency ordinance.[15] An ordinance granting a full exemption for homestead property valued less than $250,000 must be approved by a super majority vote (majority plus one) of the members of the governing body.[16] An ordinance must specify that the exemption applies only to taxes levied by the governmental entity granting the exemption,[17] and specify the amount of the exemption, not to exceed the limits provided in statute.[18] Finally, an ordinance granting an additional homestead exemption must require the taxpayer claiming the exemption to submit to the property appraiser a sworn statement of household income each year.[19]

Sworn Statements of Household Income

The Department of Revenue (department) is required by statute to regulate the annual statement of household income. The statement must be supported by copies of federal income tax returns for the prior year, W-2 forms, any request for an extension of time to file such statement, and any other document the department deems necessary.[20] The taxpayer's sworn statement must attest to the accuracy of the documents and grant permission to allow review of the documents, if requested, by the property appraiser.[21] Supporting documents are not required, unless requested, for a renewal of an existing exemption.[22] However, the property appraiser is authorized to randomly audit the taxpayers' sworn statements to ensure accuracy of the household income reported.[23]

Penalties for Failure to Notify and Tax Liens

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[11] Ch. 99-341, Laws of Fla. (HB 291).
[12] Ch. 2012-193, Laws of Fla. (HB 7097).
[13] Section 196.075(4), F.S.
[14] Florida Department of Revenue, *Florida Property Tax Valuation and Income Limitation Rates, available at* https://floridarevenue.com/property/Documents/AdditionalHomesteadExemptions.pdf (last visited March 17, 2021).
[15] Section 196.075(4)(a), F.S.
[16] *Id.*
[17] Section 196.075(4)(b), F.S.
[18] Section 196.075(4)(c), F.S.
[19] Section 196.075(4)(d), F.S.
[20] Section 196.075(5), F.S.
[21] *Id.*
[22] *Id.*
[23] *Id.*

Under s. 196.075, F.S., if the property appraiser determines that for any year within the last ten years the taxpayer received an exemption for which they were not entitled, the taxpayer shall be subject to the taxes exempted as a result of such failure and a penalty of 50 percent of the taxes exempted plus 15 percent interest per annum. If such penalty is not paid in 30 days, the property appraiser must record a notice of tax lien against any property in the county owned by that person, or property in other counties if that person no longer owns property in the appraiser's county.[24]

This penalty, its valuation and lien provision, is equivalent to the penalty associated with receiving a general homestead exemption to which a taxpayer was not entitled.[25]

Effect of Proposed Changes

The bill amends s. 196.075, F.S., to provide that an ordinance enacted by a local government granting an additional homestead exemption for low-income seniors aged 65 years or over must require the taxpayer to submit a sworn statement of household income to the property appraiser when claiming the exemption for the first time, rather than annually.

The bill requires the property appraiser to annually notify each taxpayer claiming the income-based homestead exemption of the adjusted income limitation for that year. The taxpayer must notify the property appraiser by March 1 of that year if his or her household income exceeds the most recent adjusted income limitation. If the taxpayer fails to notify the property appraiser that their income exceeds the limitation, and the property appraiser determines that for any year within the most recent 10 years that the taxpayer received an exemption that he or she was not entitled to receive, the taxpayer shall be subject to the taxes exempted, plus 15 percent interest per annum and a penalty of 50 percent of the taxes exempted.

B. SECTION DIRECTORY:

Section 1. Amends ss. 196.075(4)(d), and (5), F.S., requiring low-income seniors to submit a sworn statement of household income only when claiming the additional homestead exemption for the first time; requiring the property appraiser to provide adjusted income limitations annually; providing for penalties and interest for taxpayers who received an exemption that they were not entitled to receive.

Section 2. Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   The Revenue Estimating Conference, on March 12, 2021, estimated that the fiscal impact on local government revenue was indeterminate positive or negative.

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[24] Section 196.075(9), F.S.

[25] Section 193.155(10), F.S.

2. Expenditures:

   Property appraisers may incur expenses as a result of implementing the annual notification requirement in the bill.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill amends the process by which a senior verifies his or her income for purposes of receiving certain income-based homestead property tax exemptions, in order to reduce the burden of submitting sworn statements annually. As is the case with current law, a senior may be subject to penalties for receiving a homestead exemption for which he or she is not eligible; such penalties are not changed by the bill.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   None.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

The bill does not provided rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES